

Remarks

Claims 1 through 40 are pending.

Claim Rejections - 35 U.S.C. § 102

The rejection of claims 1-7, 9, 10, 13, 18, 19, 22-27 and 28-30 under 35 U.S.C. § 102(b) as anticipated by Goddard (EP 0400847) has been maintained.

The Examiner maintains that Goddard discloses measuring time-dependent movement of the particle and notes that “the return of the particle to its resting position is movement.” Applicants maintain that monitoring time-dependent movement, e.g., to and fro movement as it occurs over a period of time, is distinct from measuring a single point in time when a particle returns to a particular position, which is what is disclosed in Goddard.

The Examiner asserts that Goddard teaches the use of a Hall Effect, or magnetic field, sensor operative to detect the time-dependent movement of the particle. Goddard does not teach or suggest using a Hall Effect sensor to monitor the time-dependent movement of the particle as it moves to and fro within a magnetic field. To the contrary, Goddard discloses that it is preferred to detect the particle at its resting position. See, for example, col. 1, lines 55-58 (“sensor means for detecting the return of the agitator to its resting position”) and col. 3 lines 10-12 (“We prefer, however, to employ a sensor capable of detecting the impact of the agitator on the base of the chamber.”) Where Goddard mentions a Hall Effect sensor, it is not in reference to using it to detect time-dependent motion. The only mention of detecting time-dependent motion using a sensor is at col. 3, lines 35-48, to which the Examiner refers, but that is in reference to an optical sensor. Goddard makes clear that detecting the particle at the resting position is the preferred embodiment. Thus, what is described at col. 3, lines 35-48 appears to be a narrow optical-only exception to the preferred embodiment. The use of a Hall Effect sensor to monitor the time-dependent movement of the particle is not taught or suggested, and thus Goddard does not anticipate the claims as amended. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 11, 12, and 15-17 under 35 U.S.C. § 103(a) as obvious in view of Goddard (EP 0400847). All of claims 11, 12 and 15-17 incorporate the limitation that the magnetic field sensor is operative to detect the time-dependent movement of the particle.

As discussed above, Goddard does not teach or suggest detecting the time-dependent movement of the particle within the volume or sample. Thus, Goddard does not disclose or suggest claims 11, 12, and 15-17. Moreover, there is no motivation provided to attempt modification of Goddard to achieve the claimed device. Applicants urge that the claims are therefore patentable over Goddard. Reconsideration and withdrawal of the rejection is respectfully requested.

The Examiner has rejected claims 8, 14, 20, 21, and 31 under 35 U.S.C. § 103(a) as obvious in view of Goddard (EP 0400847) in combination with Oberhardt et al. (5350676). All of claims 8, 14, 20, 21, and 31 incorporate the limitation that the magnetic field sensor is operative to detect the time-dependent movement of the particle.

As discussed above, Goddard does not teach or suggest detecting the time-dependent movement of the particle within the volume or sample with a magnetic field sensor. Thus, Goddard does not disclose or suggest claims 8, 14, 20, 21, and 31. Oberhardt does not remedy the deficiencies of Goddard. Applicants urge that the claims are therefore patentable over Goddard in combination with Oberhardt. Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
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